

AMENDED IN SENATE MARCH 24, 2008

SENATE BILL

No. 1357

Introduced by Senator Padilla

(Principal coauthor: Assembly Member Fuentes)

February 20, 2008

An act to amend ~~Section 14581~~ of Sections 14575 and 14581 of, and to amend, repeal, and add Section 14585 of, the Public Resources Code, relating to beverage containers, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1357, as amended, Padilla. Beverage containers: *processing and handling payments*: grants.

~~The~~

(1) *The* California Beverage Container Recycling and Litter Reduction Act requires a distributor of specified beverage containers to pay a redemption payment to the Department of Conservation for each beverage container sold or transferred, for deposit in the California Beverage Container Recycling Fund. The moneys in the fund are continuously appropriated to the department to pay refund values, administrative fees, and a reserve for contingencies. The department is authorized to expend the moneys in the fund for administrative costs only upon appropriation by the Legislature. The department is then authorized to make other specified expenditures from the moneys remaining in the fund after the moneys for those purposes have been set aside, including the expenditure of \$1,500,000 annually for grants for beverage container recycling and litter reduction programs.

This bill would additionally authorize the department to expend up to \$20,000,000 from January 1, 2009, ~~to~~ through January 1, 2010 2012, for either grants for beverage container recycling and litter reduction

programs or focused, regional community beverage container recycling and litter reduction programs, thereby making an appropriation.

(2) *Existing law requires the department to calculate a processing fee and a processing payment for each beverage container with a specified scrap value. The processing fees are required to be paid by beverage manufacturers to the department and are deposited in the fund. The department is continuously appropriated the money in the fund to pay, among other things, processing payments to processors. The department is required to calculate processing payments by conducting a survey every 2nd year to determine the actual recycling costs for certified recycling centers.*

This bill would require the department, on and after January 1, 2010, to use the most recently published, measured actual costs of recycling for a beverage container, if the department determines the number of beverage containers of a material type returned for recycling is less than 5% of the total number of beverage containers returned for recycling, for all material types. The bill would also require the department to adjust the costs of recycling by a material type every 2nd year by the percentage change in the most recently measured cost of recycling HDPE plastic beverage containers.

(3) *Existing law authorizes the department to pay a handling fee per container to supermarket sites, nonprofit convenience zone recyclers, and rural region recyclers to provide an incentive to redeem beverage containers. Existing law requires the handling fees to be paid monthly, as specified, and specifies the dates for filing of claims. The department is required to determine the number of eligible containers per site for which a handling fee will be paid and to pay sites with higher eligible monthly volumes handling fees for their entire eligible monthly volume before sites with lower eligible monthly volumes receive any handling fees. The department is authorized to carry over any unexpended monthly allocation to a subsequent month.*

Under existing law, the department is required, by January 1, 2008, and every 2 years thereafter, to conduct a survey of certified recycling centers receiving handling fee payments to determine the actual cost for the redemption of beverage containers by those certified recycling centers and, using this information, determine the statewide weighted average cost for empty beverage containers, at recycling centers that receive handling fees.

This bill would, as of July 1, 2009, delete those provisions regarding the monthly payments of handling fees, the filing of claims, the

determination regarding the number of eligible containers per site, and the carryover of unexpended amounts. The bill would authorize the department, on and after January 1, 2010, in conjunction with these cost surveys, to use the costs of recycling that are used in determining the amount of processing payments.

(4) The bill would make an appropriation by revising the requirements for, and increasing the amounts of, the processing payments and handling fees paid by the department from the continuously appropriated fund.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 14575 of the Public Resources Code is*
2 *amended to read:*

3 14575. (a) If any type of empty beverage container with a
4 refund value established pursuant to Section 14560 has a scrap
5 value less than the cost of recycling, the department shall, on
6 January 1, 2000, and on or before January 1 annually thereafter,
7 establish a processing fee and a processing payment for the
8 container by the type of the material of the container.

9 (b) The processing payment shall be at least equal to the
10 difference between the scrap value offered to a statistically
11 significant sample of recyclers by willing purchasers, and except
12 for the initial calculation made pursuant to subdivision (d), the
13 sum of both of the following:

14 (1) The actual cost for certified recycling centers, excluding
15 centers receiving a handling fee, of receiving, handling, storing,
16 transporting, and maintaining equipment for each container sold
17 for recycling or, only if the container is not recyclable, the actual
18 cost of disposal, calculated pursuant to subdivision (c). The
19 department shall determine the statewide weighted average cost
20 to recycle each beverage container type, which shall serve as the

1 actual recycling costs for purposes of paragraphs (2) and (3) of
2 subdivision (c), by conducting a survey of the costs of a statistically
3 significant sample of certified recycling centers, excluding those
4 recycling centers receiving a handling fee, for receiving, handling,
5 storing, transporting, and maintaining equipment.

6 (2) A reasonable financial return for recycling centers.

7 (c) The department shall base the processing payment pursuant
8 to this section upon all of the following:

9 ~~(1) The department shall use the average scrap values paid to~~
10 ~~recyclers between October 1, 2001, and September 30, 2002, for~~
11 ~~the 2003 calculation and the same 12-month period directly~~
12 ~~preceding the year in which the processing fee is calculated for~~
13 ~~any subsequent calculation.~~

14 ~~(2) To calculate the 2003 processing payments, the department~~
15 ~~shall use the recycling costs for certified recycling centers used to~~
16 ~~calculate the January 1, 2002, processing payments.~~

17 ~~(3) For~~

18 *(1) Except as provided in paragraph (2), for calculating*
19 *processing payments that will be in effect on and after January 1,*
20 *2004, the department shall determine the actual costs for certified*
21 *recycling centers, every second year, pursuant to paragraph (1) of*
22 *subdivision (b). The department shall adjust the recycling costs*
23 *annually to reflect changes in the cost of living, as measured by*
24 *the Bureau of Labor Statistics of the United States Department of*
25 *Labor or a successor agency of the United States government.*

26 *(2) On and after January 1, 2010, the department shall use the*
27 *most recently published, measured actual costs of recycling for a*
28 *specific beverage material type if the department determines the*
29 *number of beverage containers for that material type that is*
30 *returned for recycling pursuant to Section 14551, based on the*
31 *most recently published calendar year number of beverage*
32 *containers returned for recycling, is less than 5 percent of the total*
33 *number of beverage containers returned for recycling for all*
34 *material types. The department shall determine the actual recycling*
35 *cost to be used for calculating processing payments for those*
36 *beverage containers in the following manner:*

37 *(A) The department shall adjust the costs of recycling that*
38 *material type every second year by the percentage change in the*
39 *most recently measured cost of recycling HDPE plastic beverage*
40 *containers, as determined by the department.*

(B) The department shall adjust the recycling costs annually for that material type to reflect changes in the cost of living, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States government.

~~(d) Notwithstanding paragraph (1) of subdivision (b) and subdivision (c), for the purpose of setting the cost for recycling non polyethylene terephthalate (non-PET) plastic containers by certified recycling centers to determine the processing payment for those containers, the department shall use a recycling cost of six hundred forty-two dollars and sixty-nine cents (\$642.69) per ton for the January 1, 2002, calculation of the processing payment.~~

~~(e)~~

(d) Except as specified in subdivision ~~(f)~~ (e), the actual processing fee paid by a beverage manufacturer shall equal 65 percent of the processing payment calculated pursuant to subdivision (b).

~~(f)~~

(e) The department, consistent with Section 14581 and subject to the availability of funds, shall reduce the processing fee paid by beverage manufacturers by expending funds in each material processing fee account, in the following manner:

~~(1) The processing fee in effect on January 1, 2004, shall be equal to the following amounts:~~

~~(A) For a container type that was subject to this division on January 1, 1999, 12 percent of the processing payment if the recycling rate of that container type was equal to, or greater than, 60 percent for the 1999 calendar year.~~

~~(B) For a container type that was not subject to this division on January 1, 1999, 12 percent of the processing payment, if the recycling rate of that container type was equal to, or greater than, 60 percent for the 2001 calendar year.~~

~~(C) For a container type that was not subject to this division on January 1, 1999, 15 percent of the processing payment if the recycling rate for that container type was equal to, or greater than, 45 percent, but less than 60 percent for the 2001 calendar year.~~

~~(D) For a container type that was not subject to this division on January 1, 1999, 20 percent of the processing payment if the recycling rate for that container type was equal to, or greater than, 30 percent, but less than 45 percent, for the 2001 calendar year.~~

1 ~~(2)~~

2 (1) On January 1, 2005, and annually thereafter, the processing
3 fee shall equal the following amounts:

4 (A) Ten percent of the processing payment for a container type
5 with a recycling rate equal to or greater than 75 percent.

6 (B) Eleven percent of the processing payment for a container
7 type with a recycling rate equal to or greater than 65 percent, but
8 less than 75 percent.

9 (C) Twelve percent of the processing payment for a container
10 type with a recycling rate equal to or greater than 60 percent, but
11 less than 65 percent.

12 (D) Thirteen percent of the processing payment for a container
13 type with a recycling rate equal to or greater than 55 percent, but
14 less than 60 percent.

15 (E) Fourteen percent of the processing payment for a container
16 type with a recycling rate equal to or greater than 50 percent, but
17 less than 55 percent.

18 (F) Fifteen percent of the processing payment for a container
19 type with a recycling rate equal to or greater than 45 percent, but
20 less than 50 percent.

21 (G) Eighteen percent of the processing payment for a container
22 type with a recycling rate equal to or greater than 40 percent, but
23 less than 45 percent.

24 (H) Twenty percent of the processing payment for a container
25 type with a recycling rate equal to or greater than 30 percent, but
26 less than 40 percent.

27 (I) Sixty-five percent of the processing payment for a container
28 type with a recycling rate less than 30 percent.

29 ~~(3) Notwithstanding this section, for calendar year 2007 only,~~
30 ~~the department shall reduce to zero the processing fee paid for any~~
31 ~~container type with a recycling rate equal to, or greater than 40~~
32 ~~percent.~~

33 ~~(4)~~

34 (2) The department shall calculate the recycling rate for purposes
35 of ~~paragraphs (2) and (3)~~ *paragraph (1)* based on the 12-month
36 period ending on June 30 that directly precedes the date of the
37 January 1 processing fee determination.

38 ~~(g)~~

39 (f) Not more than once every three months, the department may
40 make an adjustment in the amount of the processing payment

1 established pursuant to this section notwithstanding any change
2 in the amount of the processing fee established pursuant to this
3 section, for any beverage container, if the department makes the
4 following determinations:

5 (1) The statewide scrap value paid by processors for the material
6 type for the most recent available 12-month period directly
7 preceding the quarter in which the processing payment is to be
8 adjusted is 5 percent more or 5 percent less than the average scrap
9 value used as the basis for the processing payment currently in
10 effect.

11 (2) Funds are available in the processing fee account for the
12 material type.

13 (3) Adjusting the processing payment is necessary to further
14 the objectives of this division.

15 ~~(h)~~

16 (g) (1) Except as provided in paragraphs (2) and (3), every
17 beverage manufacturer shall pay to the department the applicable
18 processing fee for each container sold or transferred to a distributor
19 or dealer within 40 days of the sale in the form and in the manner
20 which the department may prescribe.

21 (2) (A) Notwithstanding Section 14506, with respect to the
22 payment of processing fees for beer and other malt beverages
23 manufactured outside the state, the beverage manufacturer shall
24 be deemed to be the person or entity named on the certificate of
25 compliance issued pursuant to Section 23671 of the Business and
26 Professions Code. If the department is unable to collect the
27 processing fee from the person or entity named on the certificate
28 of compliance, the department shall give written notice by certified
29 mail, return receipt requested, to that person or entity. The notice
30 shall state that the processing fee shall be remitted in full within
31 30 days of issuance of the notice or the person or entity shall not
32 be permitted to offer that beverage brand for sale within the state.
33 If the person or entity fails to remit the processing fee within 30
34 days of issuance of the notice, the department shall notify the
35 Department of Alcoholic Beverage Control that the certificate
36 holder has failed to comply, and the Department of Alcoholic
37 Beverage Control shall prohibit the offering for sale of that
38 beverage brand within the state.

39 (B) The department shall enter into a contract with the
40 Department of Alcoholic Beverage Control, pursuant to Section

1 14536.5, concerning the implementation of this paragraph, which
2 shall include a provision reimbursing the Department of Alcoholic
3 Beverage Control for its costs incurred in implementing this
4 paragraph.

5 (3) (A) Notwithstanding paragraph (1), if a beverage
6 manufacturer displays a pattern of operation in compliance with
7 this division and the regulations adopted pursuant to this division,
8 to the satisfaction of the department, the beverage manufacturer
9 may make a single annual payment of processing fees, if the
10 beverage manufacturer meets either of the following conditions:

11 (i) If the redemption payment and refund value is not increased
12 pursuant to paragraph (3) of subdivision (a) of Section 14560, the
13 beverage manufacturer's projected processing fees for a calendar
14 year total less than ten thousand dollars (\$10,000).

15 (ii) If the redemption payment and refund value is increased
16 pursuant to paragraph (3) of subdivision (a) of Section 14560, the
17 beverage manufacturer's projected processing fees for a calendar
18 year total less than fifteen thousand dollars (\$15,000).

19 (B) An annual processing fee payment made pursuant to this
20 paragraph is due and payable on or before February 1 for every
21 beverage container sold or transferred by the beverage
22 manufacturer to a distributor or dealer in the previous calendar
23 year.

24 (C) A beverage manufacturer shall notify the department of its
25 intent to make an annual processing fee payment pursuant to this
26 paragraph on or before January 31 of the calendar year for which
27 the payment will be due.

28 (4) The department shall pay the processing payments on
29 redeemed containers to processors, in the same manner as it pays
30 refund values pursuant to Sections 14573 and 14573.5. The
31 processor shall pay the recycling center the entire processing
32 payment representing the actual costs and financial return incurred
33 by the recycling center, as specified in subdivision (b).

34 ~~(i)~~

35 ~~(h)~~ When assessing processing fees pursuant to subdivision (a),
36 the department shall assess the processing fee on each container
37 sold, as provided in subdivisions ~~(e)~~ (d) and ~~(f)~~ (e), by the type of
38 material of the container, assuming that every container sold will
39 be redeemed for recycling, whether or not the container is actually
40 recycled.

1 ~~(j)~~

2 (i) The container manufacturer, or a designated agent, shall pay
3 to, or credit, the account of the beverage manufacturer in an amount
4 equal to the processing fee.

5 ~~(k)~~

6 (j) If, at the end of any calendar year for which glass recycling
7 rates equal or exceed 45 percent and sufficient surplus funds remain
8 in the glass processing fee account to make the reduction pursuant
9 to this subdivision or if, at the end of any calendar year for which
10 PET recycling rates equal or exceed 45 percent and sufficient
11 surplus funds remain in the PET processing fee account to make
12 the reduction pursuant to this subdivision, the department shall
13 use these surplus funds in the respective processing fee accounts
14 in the following calendar year to reduce the amount of the
15 processing fee that would otherwise be due from glass or PET
16 beverage manufacturers pursuant to this subdivision.

17 (1) The department shall reduce the glass or PET processing
18 fee amount pursuant to this subdivision in addition to any reduction
19 for which the glass or PET beverage container qualifies under
20 subdivision~~(f)~~ (e).

21 (2) The department shall determine the processing fee reduction
22 by dividing two million dollars (\$2,000,000) from each processing
23 fee account by an estimate of the number of containers sold or
24 transferred to a distributor during the previous calendar year, based
25 upon the latest available data.

26 ~~SECTION 1.~~

27 SEC. 2. Section 14581 of the Public Resources Code is
28 amended to read:

29 14581. (a) Subject to the availability of funds, and pursuant
30 to subdivision (c), the department shall expend the moneys set
31 aside in the fund, pursuant to subdivision (c) of Section 14580, for
32 the purposes of this section:

33 (1) (A) On and after July 1, 2005, to June 30, 2006, inclusive,
34 up to thirty-one million dollars (\$31,000,000) may be expended
35 for that fiscal year for the payment of handling fees pursuant to
36 Section 14585.

37 (B) On and after July 1, 2006, to June 30, 2007, inclusive, up
38 to thirty-three million dollars (\$33,000,000) may be expended for
39 that fiscal year for the payment of handling fees pursuant to Section
40 14585.

1 (C) On and after July 1, 2007, to June 30, 2008, inclusive, up
2 to thirty-five million dollars (\$35,000,000) may be expended for
3 that fiscal year for the payment of handling fees pursuant to Section
4 14585.

5 (D) For each fiscal year commencing July 1, 2008, the
6 department may expend the amount necessary to make the required
7 handling fee payment pursuant to Section 14585.

8 (2) Fifteen million dollars (\$15,000,000) shall be expended
9 annually for payments for curbside programs and neighborhood
10 dropoff programs pursuant to Section 14549.6.

11 (3) (A) Fifteen million dollars (\$15,000,000), plus the
12 proportional share of the cost-of-living adjustment, as provided in
13 subdivision (b), shall be expended annually in the form of grants
14 for beverage container litter reduction programs and recycling
15 programs issued to either of the following:

16 (i) Certified community conservation corps that were in
17 existence on September 30, 1999, or that are formed subsequent
18 to that date, that are designated by a city or a city and county to
19 perform litter abatement, recycling, and related activities, if the
20 city or the city and county has a population, as determined by the
21 most recent census, of more than 250,000 persons.

22 (ii) Community conservation corps that are designated by a
23 county to perform litter abatement, recycling, and related activities,
24 and are certified by the California Conservation Corps as having
25 operated for a minimum of two years and as meeting all other
26 criteria of Section 14507.5.

27 (B) Any grants provided pursuant to this paragraph shall not
28 comprise more than 75 percent of the annual budget of a
29 community conservation corps.

30 (4) (A) On or after July 1, 2007, until June 30, 2008, for only
31 that fiscal year, up to twenty million dollars (\$20,000,000) may
32 be expended in the form of competitive grants issued to community
33 conservation corps that are designated by a city or county, and that
34 meet all of the following criteria:

35 (i) Are certified by the California Conservation Corps as having
36 operated for a minimum of two years.

37 (ii) Meet all other requirements under Section 14507.5.

38 (B) The department shall prepare and adopt criteria and
39 procedures for evaluating grant applications on a competitive basis.
40 Eligible activities for the use of these funds shall include

1 developing new projects, or enhancing or assisting existing
2 projects, to increase beverage container recycling and increasing
3 the quality of recycled material at the following locations:

- 4 (i) Multifamily dwellings.
- 5 (ii) Schools.
- 6 (iii) Commercial, state, and local government buildings.
- 7 (iv) Bars, restaurants, hotels, and lodging establishments, and
8 entertainment venues.
- 9 (v) Parks and beaches.

10 (C) Any grants provided pursuant to this paragraph shall not
11 comprise more than 75 percent of the annual budget of a
12 community conservation corps.

13 (D) Any grants provided pursuant to this paragraph shall support
14 one-time capital improvement projects and shall not be used to
15 support ongoing staff activities.

16 (E) Any grant funds appropriated pursuant to this paragraph
17 that have not been awarded to a grantee prior to the end of the
18 2007–08 fiscal year shall revert to the fund.

19 (5) (A) Ten million five hundred thousand dollars (\$10,500,000)
20 may be expended annually for payments of five thousand dollars
21 (\$5,000) to cities and ten thousand dollars (\$10,000) for payments
22 to counties for beverage container recycling and litter cleanup
23 activities, or the department may calculate the payments to counties
24 and cities on a per capita basis, and may pay whichever amount
25 is greater, for those activities.

26 (B) Eligible activities for the use of these funds may include,
27 but are not necessarily limited to, support for new or existing
28 curbside recycling programs, neighborhood dropoff recycling
29 programs, public education-promoting beverage container
30 recycling, litter prevention, and cleanup, cooperative regional
31 efforts among two or more cities or counties, or both, or other
32 beverage container recycling programs.

33 (C) These funds may not be used for activities unrelated to
34 beverage container recycling or litter reduction.

35 (D) To receive these funds, a city, county, or city and county
36 shall fill out and return a funding request form to the Department
37 of Conservation. The form shall specify the beverage container
38 recycling or litter reduction activities for which the funds will be
39 used.

(E) The Department of Conservation shall annually prepare and distribute a funding request form to each city, county, or city and county. The form shall specify the amount of beverage container recycling and litter cleanup funds for which the jurisdiction is eligible. The form shall not exceed one double-sided page in length, and may be submitted electronically. If a city, county, or city and county does not return the funding request form within 90 days of receipt of the form from the department, the city, county, or city and county is not eligible to receive the funds for that funding cycle.

(F) For the purposes of this paragraph, per capita population shall be based on the population of the incorporated area of a city or city and county and the unincorporated area of a county. The department may withhold payment to any city, county, or city and county that has prohibited the siting of a supermarket site, caused a supermarket site to close its business, or adopted a land use policy that restricts or prohibits the siting of a supermarket site within its jurisdiction.

(6) (A) One million five hundred thousand dollars (\$1,500,000) may be expended annually in the form of grants for beverage container recycling and litter reduction programs.

(B) Up to twenty million dollars (\$20,000,000) may be expended from January 1, 2009, ~~to January 1, 2010~~ *through January 1, 2012*, for either of the following:

(i) Grants for beverage container recycling and litter reduction programs.

(ii) Focused, regional community beverage container recycling and litter reduction programs.

(7) (A) The department shall expend the amount necessary to pay the processing payment and supplemental processing payment established pursuant to Sections 14575 and 14575.5 and pay processing fee rebates pursuant to Section 14575.2. The department shall establish separate processing fee accounts in the fund for each beverage container material type for which a processing payment and processing fee are calculated pursuant to Section 14575, or for which a processing payment is calculated pursuant to Section 14575 and a voluntary artificial scrap value is calculated pursuant to Section 14575.1, into which account shall be deposited all of the following:

1 (i) All amounts paid as processing fees for each beverage
2 container material type pursuant to Section 14575.

3 (ii) Funds equal to the difference between the amount in clause
4 (i) and the amount of the processing payments established in
5 subdivision (b) of Section 14575, and adjusted pursuant to
6 paragraphs (2) and (3) of subdivision (c) of, and subdivision (f)
7 of, Section 14575, to reduce the processing fee to the level provided
8 in subdivision (f) of Section 14575, or to reflect the agreement by
9 a willing purchaser to pay a voluntary artificial scrap value pursuant
10 to Section 14575.1.

11 (iii) Funds equal to an amount sufficient to pay the total amount
12 of the supplemental processing payments established pursuant to
13 Section 14575.5.

14 (B) Notwithstanding Section 13340 of the Government Code,
15 the moneys in each processing fee account are hereby continuously
16 appropriated to the department for expenditure without regard to
17 fiscal years, for purposes of making processing payments and
18 supplemental processing payments, and reducing processing fees,
19 pursuant to Sections 14575 and 14575.5, and paying processing
20 fee rebates pursuant to Section 14575.2.

21 (8) Up to five million dollars (\$5,000,000) may be annually
22 expended by the department for the purposes of undertaking a
23 statewide public education and information campaign aimed at
24 promoting increased recycling of beverage containers.

25 (9) Until January 1, 2008, the department may expend up to
26 five million dollars (\$5,000,000) for the purposes of undertaking
27 a statewide public education and information campaign aimed at
28 promoting increased recycling of beverage containers that meets
29 both of the following requirements:

30 (A) The public education and information campaign is
31 multimedia and includes print, radio, and television.

32 (B) The public education and information campaign is
33 multilingual.

34 (10) Up to fifteen million dollars (\$15,000,000) may be
35 expended annually by the department for quality incentive
36 payments for empty beverage containers pursuant to Section
37 14549.1.

38 (11) Up to twenty million dollars (\$20,000,000) may be
39 expended annually by the department, until January 1, 2012, to
40 issue grants for recycling market development and

1 expansion-related activities aimed at increasing the recycling of
2 beverage containers, including, but not limited to, the following:

3 (A) Research and development of collecting, sorting, processing,
4 cleaning, or otherwise upgrading the market value of recycled
5 beverage containers.

6 (B) Identification, development, and expansion of markets for
7 recycled beverage containers.

8 (C) Research and development for products manufactured using
9 recycled beverage containers.

10 (D) Research and development to provide high-quality materials
11 that are substantially free of contamination.

12 (E) Payments to California manufacturers who recycle beverage
13 containers that are marked by resin type identification code “3,”
14 “4,” “5,” “6,” or “7,” pursuant to Section 18015.

15 (12) Up to ten million dollars (\$10,000,000) may be transferred
16 on a one-time basis by the department to the Recycling
17 Infrastructure Loan Guarantee Account, for expenditure pursuant
18 to Section 14582.

19 (13) Up to ten million dollars (\$10,000,000) may be expended
20 annually by the department for the payment of recycling incentive
21 payments pursuant to Section 14549.7 until payments for eligible
22 beverage containers redeemed or collected for recycling on or
23 before December 31, 2009, have been paid.

24 (14) Up to five million dollars (\$5,000,000) may be expended
25 annually by the department for market development payments for
26 empty plastic beverage containers pursuant to Section 14549.2,
27 until January 1, 2012.

28 (15) Up to five million dollars (\$5,000,000) may be expended,
29 by the department, on a one-time basis beginning on January 1,
30 2007, in coordination with the Department of Parks and Recreation
31 for the purposes of installing source separated beverage container
32 recycling receptacles at each of the state parks, starting with those
33 parks that have the highest day use.

34 (16) Up to five million dollars (\$5,000,000) may be expended,
35 from January 1, 2007, to January 1, 2008, to provide grants to local
36 governments or nonprofit agencies to place multifamily housing
37 source separated beverage container recycling receptacles in
38 low-income communities.

39 (17) (A) Up to fifteen million dollars (\$15,000,000) may be
40 expended from January 1, 2008, to January 1, 2009, to provide

1 grants to place source separated beverage container recycling
2 receptacles in multifamily housing.

3 (B) Notwithstanding subdivision (b) of Section 14580, the
4 amount of one hundred ninety-eight thousand dollars (\$198,000)
5 may be expended by the department from the fund, on a one-time
6 basis, for the administrative costs of implementing the grant
7 program established by subparagraph (A).

8 (b) The fifteen million dollars (\$15,000,000) that is set aside
9 pursuant to paragraph (3) of subdivision (a) is a base amount that
10 the department shall adjust annually to reflect any increases or
11 decreases in the cost of living, as measured by the Department of
12 Labor, or a successor agency, of the federal government.

13 (c) (1) The department shall review all funds on a quarterly
14 basis to ensure that there are adequate funds to make the payments
15 specified in this section and the processing fee reductions required
16 pursuant to Section 14575.

17 (2) If the department determines, pursuant to a review made
18 pursuant to paragraph (1), that there may be inadequate funds to
19 pay the payments required by this section and the processing fee
20 reductions required pursuant to Section 14575, the department
21 shall immediately notify the appropriate policy and fiscal
22 committees of the Legislature regarding the inadequacy.

23 (3) On or before 180 days after the notice is sent pursuant to
24 paragraph (2), the department may reduce or eliminate
25 expenditures, or both, from the funds as necessary, according to
26 the procedure set forth in subdivision (d).

27 (d) If the department determines that there are insufficient funds
28 to make the payments specified pursuant to this section and Section
29 14575, the department shall reduce all payments proportionally.

30 (e) Prior to making an expenditure pursuant to paragraph (7) of
31 subdivision (a), the department shall convene an advisory
32 committee consisting of representatives of the beverage industry,
33 beverage container manufacturers, environmental organizations,
34 the recycling industry, nonprofit organizations, and retailers, to
35 advise the department on the most cost-effective and efficient
36 method of the expenditure of the funds for that education and
37 information campaign.

38 (f) After setting aside money for the expenditures required
39 pursuant to subdivisions (a) and (b) and Section 14580, the
40 department may, on and after January 1, 2007, but not after July

1 1, 2007, expend remaining moneys in the fund to pay a refund
2 value in an amount greater than the refund value established
3 pursuant to subdivision (b) of Section 14560.

4 *SEC. 3. Section 14585 of the Public Resources Code is*
5 *amended to read:*

6 14585. (a) The department shall adopt guidelines and methods
7 for paying handling fees to supermarket sites, nonprofit
8 convenience zone recyclers, or rural region recyclers to provide
9 an incentive for the redemption of empty beverage containers in
10 convenience zones. The guidelines shall include, but not be limited
11 to, all of the following:

12 (1) Handling fees shall be paid on a monthly basis, in the form
13 and manner adopted by the department. The department shall
14 require that claims for the handling fee be filed with the department
15 not later than the first day of the second month following the month
16 for which the handling fee is claimed as a condition of receiving
17 any handling fee.

18 (2) (A) To be eligible for any handling fee, a supermarket site
19 recycling center, nonprofit convenience zone recycler, or rural
20 region recycler shall redeem not less than 60,000 beverage
21 containers, during the calendar month in which the handling fee
22 is claimed or have redeemed not less than an average of 60,000
23 beverage containers per month during the previous 12 months.

24 (B) Subparagraph (A) shall not apply on and after July 1, 2008.

25 (3) (A) A beverage container with a capacity of 24 fluid ounces
26 or more shall be considered as two beverage containers for
27 purposes of determining the eligibility percentage, any handling
28 fee calculations, and payments.

29 (B) Subparagraph (A) shall not apply on and after July 1, 2008.

30 (4) The department shall determine the number of eligible
31 containers per site for which a handling fee will be paid in the
32 following manner:

33 (A) Each eligible site's combined monthly volume of glass and
34 plastic beverage containers shall be divided by the site's total
35 monthly volume of all empty beverage container types.

36 (B) If the quotient determined pursuant to subparagraph (A) is
37 equal to, or more than, 10 percent, the total monthly volume of
38 the site shall be the maximum volume which is eligible for a
39 handling fee for that month.

1 (C) If the quotient determined pursuant to subparagraph (A) is
2 less than 10 percent, the department shall divide the volume of
3 glass and plastic beverage containers by 10 percent. That quotient
4 shall be the maximum volume that is eligible for a handling fee
5 for that month.

6 (5) (A) ~~From the effective date of the statute enacted by~~
7 ~~Assembly Bill 3056 of the 2005-06 Regular Session~~ *September*
8 *30, 2006*, to June 30, 2008, inclusive, the department shall pay a
9 handling fee of 1.8 cents (\$0.018) per eligible beverage container,
10 as determined pursuant to paragraph (4).

11 (B) On and after July 1, 2008, the department shall pay a
12 handling fee per eligible container in the amount determined
13 pursuant to subdivision (f).

14 (6) (A) Notwithstanding paragraph (5), the total handling fee
15 payment to a supermarket site, nonprofit convenience zone
16 recycler, or rural region recycler shall not exceed two thousand
17 three hundred dollars (\$2,300) per month.

18 (B) Subparagraph (A) shall not apply on and after July 1, 2008.

19 (7) If the eligible volume in any given month would result in
20 handling fee payments that exceed the allocation of funds for that
21 month, as provided in subdivision (b), sites with higher eligible
22 monthly volumes shall receive handling fees for their entire eligible
23 monthly volume before sites with lower eligible monthly volumes
24 receive any handling fees.

25 (8) (A) If a dealer where a supermarket site, nonprofit
26 convenience zone recycler, or rural region recycler is located ceases
27 operation for remodeling or for a change of ownership, the operator
28 of that supermarket site nonprofit convenience zone recycler, or
29 rural region recycler shall be eligible to apply for handling fees
30 for that site for a period of three months following the date of the
31 closure of the dealer.

32 (B) Every supermarket site operator, nonprofit convenience
33 zone recycler, or rural region recycler shall promptly notify the
34 department of the closure of the dealer where the supermarket site,
35 nonprofit convenience zone recycler, or rural region recycler is
36 located.

37 (C) Notwithstanding subparagraph (A), any operator who fails
38 to provide notification to the department pursuant to subparagraph
39 (B) shall not be eligible to apply for handling fees.

(b) The department may allocate the amount authorized for expenditure for the payment of handling fees pursuant to paragraph (1) of subdivision (a) of Section 14581 on a monthly basis and may carry over any unexpended monthly allocation to a subsequent month or months. However, unexpended monthly allocations shall not be carried over to a subsequent fiscal year for the purpose of paying handling fees but may be carried over for any other purpose pursuant to Section 14581.

(c) (1) The department shall not make handling fee payments to more than one certified recycling center in a convenience zone. If a dealer is located in more than one convenience zone, the department shall offer a single handling fee payment to a supermarket site located at that dealer. This handling fee payment shall not be split between the affected zones. The department shall stop making handling fee payments if another recycling center certifies to operate within the convenience zone without receiving payments pursuant to this section, if the department monitors the performance of the other recycling center for 60 days and determines that the recycling center is in compliance with this division. Any recycling center that locates in a convenience zone, thereby causing a preexisting recycling center to become ineligible to receive handling fee payments, is ineligible to receive any handling fee payments in that convenience zone.

(2) The department shall offer a single handling fee payment to a rural region recycler located anywhere inside a convenience zone, if that convenience zone is not served by another certified recycling center and the rural region recycler does either of the following:

(A) Operates a minimum of 30 hours per week in one convenience zone.

(B) Serves two or more convenience zones, and meets all of the following criteria:

(i) Is the only certified recycler within each convenience zone.

(ii) Is open and operating at least eight hours per week in each convenience zone and is certified at each location.

(iii) Operates at least 30 hours per week in total for all convenience zones served.

(d) The department may require the operator of a supermarket site or rural region recycler receiving handling fees to maintain records for each location where beverage containers are redeemed,

1 and may require the supermarket site or rural region recycler to
2 take any other action necessary for the department to determine
3 that the supermarket site or rural region recycler does not receive
4 an excessive handling fee.

5 (e) The department may determine and utilize a standard
6 container per pound rate, for each material type, for the purpose
7 of calculating volumes and making handling fee payments.

8 (f) (1) On or before January 1, 2008, and every two years
9 thereafter, the department shall conduct a survey pursuant to this
10 subdivision of a statistically significant sample of certified
11 recycling centers that receive handling fee payments to determine
12 the actual cost incurred for the redemption of empty beverage
13 containers by those certified recycling centers. The department
14 shall conduct these cost surveys in conjunction with the cost
15 surveys performed by the department pursuant to subdivision (b)
16 of Section 14575 to determine processing payments and processing
17 fees. The department shall include, in determining the actual costs,
18 only those allowable costs contained in the regulations adopted
19 pursuant to this division that are used by the department to conduct
20 cost surveys pursuant to subdivision (b) of Section 14575.

21 (2) Using the information obtained pursuant to paragraph (1),
22 the department shall then determine the statewide weighted average
23 cost incurred for the redemption of empty beverage containers,
24 per empty beverage container, at recycling centers that receive
25 handling fees.

26 (3) On and after July 1, 2008, the department shall determine
27 the amount of the handling fee to be paid for each empty beverage
28 container by subtracting the amount of the statewide weighted
29 average cost per container to redeem empty beverage containers
30 by recycling centers that do not receive handling fees from the
31 amount of the statewide weighted average cost per container
32 determined pursuant to paragraph (2).

33 (4) The department shall adjust the statewide average cost
34 determined pursuant to paragraph (2) for each beverage container
35 annually to reflect changes in the cost of living, as measured by
36 the Bureau of Labor Statistics of the United States Department of
37 Labor or a successor agency of the United States government.

38 (5) The cost information collected pursuant to this section at
39 recycling centers that receive handling fees shall not be used in

1 the calculation of the processing payments determined pursuant
2 to Section 14575.

3 (6) *This section shall become inoperative on July 1, 2009, and,*
4 *as of January 1, 2010, is repealed, unless a later enacted statute,*
5 *that is enacted on or before January 1, 2010, deletes or extends*
6 *the dates on which it becomes inoperative and is repealed.*

7 SEC. 4. *Section 14585 is added to the Public Resources Code,*
8 *to read:*

9 14585. (a) *The department shall adopt guidelines and methods*
10 *for paying handling fees to supermarket sites, nonprofit*
11 *convenience zone recyclers, or rural region recyclers to provide*
12 *an incentive for the redemption of empty beverage containers in*
13 *convenience zones. The guidelines shall include, but not be limited*
14 *to, all of the following:*

15 (1) *The department shall pay a handling fee per eligible*
16 *container in the amount determined pursuant to subdivision (e).*

17 (2) (A) *If a dealer where a supermarket site, nonprofit*
18 *convenience zone recycler, or rural region recycler is located*
19 *ceases operation for remodeling or for a change of ownership, the*
20 *operator of that supermarket site, nonprofit convenience zone*
21 *recycler, or rural region recycler shall be eligible to apply for*
22 *handling fees for that site for a period of three months following*
23 *the date of the closure of the dealer.*

24 (B) *Every supermarket site operator, nonprofit convenience*
25 *zone recycler, or rural region recycler shall promptly notify the*
26 *department of the closure of the dealer where the supermarket*
27 *site, nonprofit convenience zone recycler, or rural region recycler*
28 *is located.*

29 (C) *Notwithstanding subparagraph (A), any operator who fails*
30 *to provide notification to the department pursuant to subparagraph*
31 *(B) shall not be eligible to apply for handling fees.*

32 (b) (1) *The department shall not make handling fee payments*
33 *to more than one certified recycling center in a convenience zone.*
34 *If a dealer is located in more than one convenience zone, the*
35 *department shall offer a single handling fee payment to a*
36 *supermarket site located at that dealer. This handling fee payment*
37 *shall not be split between the affected zones. The department shall*
38 *stop making handling fee payments if another recycling center*
39 *certifies to operate within the convenience zone without receiving*
40 *payments pursuant to this section, if the department monitors the*

1 *performance of the other recycling center for 60 days and*
2 *determines that the recycling center is in compliance with this*
3 *division. Any recycling center that locates in a convenience zone,*
4 *thereby causing a preexisting recycling center to become ineligible*
5 *to receive handling fee payments, is ineligible to receive any*
6 *handling fee payments in that convenience zone.*

7 *(2) The department shall offer a single handling fee payment*
8 *to a rural region recycler located anywhere inside a convenience*
9 *zone, if that convenience zone is not served by another certified*
10 *recycling center and the rural region recycler does either of the*
11 *following:*

12 *(A) Operates a minimum of 30 hours per week in one*
13 *convenience zone.*

14 *(B) Serves two or more convenience zones, and meets all of the*
15 *following criteria:*

16 *(i) Is the only certified recycler within each convenience zone.*

17 *(ii) Is open and operating at least eight hours per week in each*
18 *convenience zone and is certified at each location.*

19 *(iii) Operates at least 30 hours per week in total for all*
20 *convenience zones served.*

21 *(c) The department may require the operator of a supermarket*
22 *site or rural region recycler receiving handling fees to maintain*
23 *records for each location where beverage containers are redeemed,*
24 *and may require the supermarket site or rural region recycler to*
25 *take any other action necessary for the department to determine*
26 *that the supermarket site or rural region recycler does not receive*
27 *an excessive handling fee.*

28 *(d) The department may determine and utilize a standard*
29 *container per pound rate, for each material type, for the purpose*
30 *of calculating volumes and making handling fee payments.*

31 *(e) (1) (A) On or before January 1, 2010, and every two years*
32 *thereafter, the department shall conduct a survey pursuant to this*
33 *subdivision of a statistically significant sample of certified*
34 *recycling centers that receive handling fee payments to determine*
35 *the actual cost incurred for the redemption of empty beverage*
36 *containers by those certified recycling centers. The department*
37 *shall conduct these cost surveys in conjunction with the cost*
38 *surveys performed by the department pursuant to subdivision (b)*
39 *of Section 14575 to determine processing payments and processing*
40 *fees. The department shall include, in determining the actual costs,*

1 *only those allowable costs contained in the regulations adopted*
2 *pursuant to this division that are used by the department to conduct*
3 *cost surveys pursuant to subdivision (b) of Section 14575.*

4 *(B) On and after January 1, 2010, in conjunction with the cost*
5 *surveys performed by the department pursuant to subparagraph*
6 *(A), the department shall also use the costs of recycling determined*
7 *pursuant to paragraph (2) of subdivision (c) of Section 14575 to*
8 *determine the costs incurred for recycling.*

9 *(2) Using the information obtained pursuant to paragraph (1),*
10 *the department shall then determine the statewide weighted average*
11 *cost incurred for the redemption of empty beverage containers,*
12 *per empty beverage container, at recycling centers that receive*
13 *handling fees.*

14 *(3) The department shall determine the amount of the handling*
15 *fee to be paid for each empty beverage container by subtracting*
16 *the amount of the statewide weighted average cost per container*
17 *to redeem empty beverage containers by recycling centers that do*
18 *not receive handling fees from the amount of the statewide weighted*
19 *average cost per container determined pursuant to paragraph (2).*

20 *(4) The department shall adjust the statewide average cost*
21 *determined pursuant to paragraph (2) for each beverage container*
22 *annually to reflect changes in the cost of living, as measured by*
23 *the Bureau of Labor Statistics of the United States Department of*
24 *Labor or a successor agency of the United States government.*

25 *(5) The cost information collected pursuant to this section at*
26 *recycling centers that receive handling fees shall not be used in*
27 *the calculation of the processing payments determined pursuant*
28 *to Section 14575.*

29 *(f) This section shall become operative July 1, 2009.*